IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20/12/2002

CORAM

THE HONOURABLE MR.JUSTICE V.S.SIRPURKAR

Writ Petition No.195 of 1996

Tmt.S.Rajamani (Deceased)
W/o Late K.Sangili

S.Karthikayan
S/o K.Sangili
(Petitioner's name substituted
in the place of the deceased
petitioner as per order of the
Court dated 20.12.2002 in WMP
No.51807 of 2002) ... Petitioner

-Vs-

1.The Secretary to the Government
Rural Development and Local
Administration, Government of
Tamil Nadu, Fort St.George,
Chennai-9.

2.The Collector, Trichy District
Trichy.

3.The Commissioner, Panchayat Union
K.Paramathi, Karur Taluk
Trichy District. ... Respondents

Petition under Article 226 of the Constitution of India praying for
the issue of a writ of Certiorari as stated therein.

For Petitioner : Mr.Thiruvadi Kumar
for Mrs.G.Latha

For Respondents: Mrs. T.Kokilavani
RR 1 and 2 : Government Advocate

R3 : Ms.J.Sathyavathi

:O R D E R

Original petitioner was one S.Rajamani, wife of one late K.Sangili.

Thereafter, it seems that even this S.Rajamani has expired and the petitioner has been allowed to be substituted in her place. The contention of the original petitioner was that her husband Sangili was working in the Panchayat Union of K.Paramathi Panchayat Union, Karur Taluk, Trichy District, as it then was, as a driver of the road roller allotted to the Panchayat Union for self sufficiency scheme. He worked between 15.4.1981 to 11.1.1990, when he suddenly expired. The third respondent, Commissioner of Panchayat Union, had paid Rs.2,000/- for his last rites, but thereafter his gratuity, bonus, death benefits, retirement benefits, pension and compassionate appointment etc., was not given by the third respondent at all. The petitioner claims to have made several representations, but did not receive any reply. The first representation seems to have been answered by the second respondent by its proceedings dated 24.1.1992 bearing Na.Ka.Ta.No.4/31706 /91, wherein it was admitted that the said Sangili was appointed on 2 4.2.1981 as a dirver of the road roller by the proceedings dated 7.4.1981 and that a further resolution was also passed by the Panchayat Union dated 27.4.1981 appointing him as a driver. The second respondent/Collector had also directed for the settlement of the dues and family pension, but nothing happened. The petitioner claims that she sent four representations, including representation to the Joint Secretary, Chief Minister's Special Cell, but to no effect. It is further pointed out that another letter was sent by the Collector on 31.7.199 3 to the Special Officer, Chief Minister's Grievance Cell and the petitioner ultimately seems to have sent a last representation dated 12.9.1994.

2. The whole difficulty is that the State Government has not passed any order. The third respondent has filed a counter, wherein the third respondent suggests that the road roller was actually purchased and the deceased Sangili was directly recruited to the post of road roller driver. It is pointed out that he was appointed under the emergent circumstances because there was nobody to drive the road roller and some works had to be completed within a short period under the self sufficiency scheme. The counter further goes on to suggest that the petitioner, while in service, expired on 11.1.1991. But, before that an objection was raised on his appointment by local and audit fund. However, those objections were subsequently dropped. The counter goes on to suggest further that proposals for creation of the post of road roller driver and seeking ratification for the irregular appointment of the said Sangili were already sent by the Panchayat through proper channel by their communications dated 14.3.1991, 30.12.1994, 21 .2.1995 and 6.9.1995 and the Collector had also sent proposals for sanction of the post of road roller driver with effect from 15.4.1981 vide his communication dated 15.10.1995 to the Director of Rural Development, Madras. However, no orders have so far been passed.

3. In view of the fact that it is not disputed at any stage by anybody that Sangili was working as road roller driver for good long nine or ten years, there can be no dispute about his entitlement. True it is, that his appointment is irregular and done under the emergent circumstances. But, the Government is duty bound to regularise the post since the services have been taken from him. During the pendency of this writ petition, by an order dated 18.1.2002, I had directed the Government to consider the proposals sent by the Panchayat Union and more particularly, the third respondent. However,

for one full year, this order was not complied with. Therefore, again an order came to be passed on 13.12.2002, directing the Additional Government Pleader to make a statement as to what had happened in respect of the consideration of the proposal sent by the Panchayat Union to the Government. However, today also the learned Additional Government Pleader is not in a position to state anything in respect of the consideration. In that view, it is clear that the Government has merely slept over the matter and has not even bothered t o decide to regularise the post so that the concerned person becomes entitled to the rightful dues. In view of this, the Government is directed to finalise the proposals made by the Panchayat Union and recommended by the Collector, and regularise the services of Sangili so that he becomes entitled for the benefits. The Government is directed to comply with this order within four months from today. The learned Additional Government Pleader has undertaken to inform the Government about this time limit. After the regularisation of the services, the Government will calculate the benefits payable to the family members and take further steps. The writ petition is allowed in the above terms. No costs.

Index : Yes
Website : Yes

KST.

To:

1.The Secretary to the Government
Rural Development and Local
Administration, Government of
Tamil Nadu, Fort St.George,
Chennai-9.

2.The Collector, Trichy District
Trichy.

3.The Commissioner, Panchayat Union
K.Paramathi, Karur Taluk
Trichy District.